

PHARMACY EXAMINING BOARD  
REGULAR MEETING  
MARCH 13-14, 2001

MEMBERS PRESENT: John Bohlman, RPH; Charlotte Rassmussen; Sue Sutter, RPH;  
Michael Bettiga, RPH; Dan Luce, RPH; Cynthia Benning, RPH;  
Georgina Forbes

LEGAL COUNSEL: William Black

STAFF PRESENT: Patrick D. Braatz, Karen Rude-Evans

GUESTS: Susan Kleppin, PSW; Troy Kienzle, Nathan Reabe, Sara Fuchs,  
Daniel Hable, Kristen Mubauer, Yuen Lai, Ben Laird, Collen  
Groenier, Holly Dillenbeck Kim Tram and Sheila Olson, UW-  
SOP; Jamie Statz Paynter, Dean Pharmacy; Michael Boushon and  
Larry Edwards, DOC; Marilyn Windschiegel, SMS of Wis.; Jeff  
Langer, Osco Drugs; Shelly Raebel, R.Ph.

CALL TO ORDER

Chair John Bohlman called the meeting to order at 1:15 p.m.

REVIEW AND DISCUSSION OF ACTIVE PRACTICE OF PHARMACY AND PROPOSED  
AMENDMENT OF PHAR 16

Legal counsel William Black presented several options for draft language to the Board. The Board decided to separate these issues and handle them individually.

MOTION: Cynthia Benning moved, seconded by Michael Bettiga, to accept the changes made to the proposed amendment to Phar 16 and the analysis and send these to the Clearinghouse. Motion carried unanimously.

MOTION: Cynthia Benning moved, seconded by Dan Luce, to adopt the scope statement as amended. Motion carried unanimously.

REVIEW AND DISCUSSION OF PHAR 7.05 TRANSFER RULE, PUBLIC COMMENTS  
AND MOTION TO APPROVE RULE TO BE SUBMITTED TO THE LEGISLATURE WITH  
CLEARINGHOUSE RESPONSES

MOTION: Cynthia Benning moved, seconded by Dan Luce, to adopt the changes to the rule and send it to the Legislature. Motion carried unanimously.

REVIEW AND DISCUSSION OF WRITTEN PRESCRIPTION ORDER SIGNATURES

John Bohlman suggested drafting a letter to the Medical Examining Board with specific questions that need to be addressed on the issue of written prescription order signatures. Sue

Sutter will draft the letter with legal counsel, and the Board will review the letter before sending it to the Medical Examining Board.

## REVIEW AND DISCUSSION REGARDING PHAR 7 – CENTRAL FILL

The Board discussed the issue of central fill at length. The Board directed William Black to make changes as indicated to Sec. 1(a), remove “or in other state”, and modify Sec. 2(b) providing for the assignment and assumption of the legal duties outlined in Phar Chs. 7 and 8. Sec. 2(c) shall have added, “drug interactions”.

## PRACTICE QUESTIONS

### KRIDER PHARMACY AND GIFTS

The Board reviewed two letters from Gary B. Krider, R.Ph., of Krider Pharmacy and Gifts. Mr. Krider must be cognizant of the 5% rule and record need to be kept separate from prescriptions. Mr. Krider’s second question was regarding large amounts of Morphine Sulfate tablets prescribed monthly for a customer. As long as this is prescribed, and due diligence is exercised, the pharmacy should not be liable.

### MARA KIESER, RPH

The Board reviewed a letter from Mara Kieser, R.Ph. The pharmacy does not need a second pharmacy license or a second DEA number. The pharmacy does need to have a separate inventory for the CBRF, and probably should have a separate purchasing contract.

### GUNDERSEN LUTHERAN

The Board reviewed a letter from Jim Lukas of Gundersen Lutheran. They must have separate inventories for the inpatient and outpatient pharmacies. Mr. Lukas’ other questions were:

- Q1. Does this fall within an approved scope of practice for a licensed pharmacist?  
A1. No.
- Q2. Can the pharmacist correct the medication name/dose/directions on the clinic’s physician electronic medication list based on clarification with the provider?  
A2. No.
- Q3. Can the pharmacist add a new medication to the clinic’s physician electronic medication list based on receiving a written prescription, a verbal prescription, or verbal clarification with the provider?  
A3. Yes.

### NCS HEALTHCARE

The Board reviewed a letter from Michael Vande Zande, R.Ph., of NCS HealthCare. Delegated acts are ok if they are under physician direction. The pharmacy should contact the medical

records department because changes are different than new orders. William Black will draft a letter to NCS HealthCare.

#### RECESS

MOTION: Dan Luce moved, seconded by Michael Bettiga, to recess the meeting until tomorrow. Motion carried unanimously.

The meeting recessed for the day at 4:31 p.m. and will reconvene tomorrow at 9:00 a.m.

#### RECONVENE/CALL TO ORDER

Chair John Bohlman called the meeting to order at 9:02 a.m. on March 14, 2001.

#### APPROVAL OF AGENDA

Amendments: -Presentation of petition for summary suspension – Douglas K. Stucky, R.Ph.  
-Closed Session deliberation of petition for summary suspension re: Stucky  
-Distributor application review – Puritan Bennett Medical Gases, New Berlin  
-Manufacturer application review – Puritan Bennett Medical Gases, New Berlin

MOTION: Michael Bettiga moved, seconded by Dan Luce, to approve the agenda as amended. Motion carried unanimously.

#### APPROVAL OF MINUTES OF FEBRUARY 13-14, 2001

Corrections: -On page 1, under GUESTS, change “Paul Whitmore” to “Scott Whitmore”  
-On page 2, under *REGULATORY DIGEST*, in the first sentence correct “or” to “of”  
-On page 6, under COULEE DRUG, insert “manufacturer’s” before “coupon”

MOTION: Michael Bettiga moved, seconded by Dan Luce, to approve the Minutes of February 13-14, 2001 as amended. Motion carried unanimously.

#### ACTING SECRETARY BILL CONWAY

Acting Secretary Bill Conway addressed the Board and wished them a productive day. A new Secretary has not yet been named, but hopefully that will occur in the near future.

#### PRESENTATION OF PROPOSED STIPULATIONS

DAVID PROHASKA, RPH, BALSAM LAKE PHARMACY,  
JAMES PHARMACY (BARRON), JAMES PHARMACY (TURTLE LAKE), SHELL LAKE  
PHARMACY, MILLER PHARMACY AND BLUE HILLS PHARMACY

DOE Attorney Arthur Thexton presented a proposed stipulation in the matter concerning David J. Prohaska, R.Ph., Balsam Lake Pharmacy, James Pharmacy (Barron), James Pharmacy (Turtle

Lake), Shell Lake Pharmacy, Miller Pharmacy, and Blue Hills Pharmacy. This matter will be deliberated on in closed session.

C JEFF ELIASON, RPH

DOE Attorney Arthur Thexton presented a proposed stipulation in the matter concerning C. Jeff Eliason, R.Ph. This matter will be deliberated on in closed session.

#### PRESENTATION OF PETITION FOR SUMMARY SUSPENSION

DOUGLAS K STUCKY, RPH

DOE Attorney Arthur Thexton presented a petition for summary suspension in the matter concerning Douglas K. Stucky, R.Ph. This matter will be deliberated on in closed session.

#### FINAL ADOPTION OF CLEARINGHOUSE RULE 00-156 RELATING TO SUPERVISING PHARMACY INTERNS

MOTION: Michael Bettiga moved, seconded by Dan Luce, to adopt Clearinghouse Rule 00-156 relating to supervising pharmacy interns. Motion carried unanimously.

#### FINAL ADOPTION OF CLEARINGHOUSE RULE 00-048 RELATING TO DELEGATION OF DUTIES BY A PHARMACIST

MOTION: Dan Luce moved, seconded by Cynthia Benning, to adopt Clearinghouse Rule 00-048 relating to delegation of duties by a pharmacist. Motion carried unanimously.

#### REPORTS ON PENDING COURT CASES, DISCIPLINARY CASES AND ADMINISTRATIVE RULES

These reports were informational.

MOTION: Cynthia Benning moved, seconded by Dan Luce, to withdraw the collaborative practice rule. Motion carried unanimously.

#### DISTRIBUTOR/MANUFACTURER'S APPLICATIONS

MOTION: Cynthia Benning moved, seconded by Dan Luce, to approve the Distributor's applications for **American Medical Distributors, Inc., NY**; **Bioglan Pharma, Inc., PA**; **Capital Returns, Milwaukee**; **Livingston Healthcare Service, Inc., DE**; **Marconi Medical Systems, Inc., Menomonee Falls**; **McKesson Hboc, IL**, **Medicis Pharmaceutical Corp., AZ.**, and **Q.K Healthcare Inc.** Motion carried unanimously.

MOTION: Cynthia Benning moved, seconded by Sue Sutter, to approve the Manufacturer's application for **AGA Gas, Inc., Madison**. Motion carried unanimously.

#### 9<sup>TH</sup> CIRCUIT COURT OF APPEALS DECISION REGARDING THE COMPOUNDING SECTION OF THE FDAMA

Legal counsel William Black discussed the 9<sup>th</sup> Circuit Court of Appeals decision regarding the compounding section of the FDAMA.

#### DISCUSSION WITH DAVE STEINES, RPH – MIDELFORT LEHMAN PHARMACY

Dave Steines, R.Ph., appeared to discuss the questions raised in his correspondence to the Board last month. Legal counsel William Black will write to Mr. Steines to detail the Board's response. The Board thanked Mr. Steines for appearing.

#### REPORT OF PHARMACY INTERNSHIP BOARD

Cynthia Benning informed the Board that the legislative hearing regarding the proposed PIB rules has been postponed.

#### REPORT OF CONTROLLED SUBSTANCES BOARD

There was no report.

#### PHARMACY INTERNSHIP BOARD TELE-LECTURE

MOTION: Dan Luce moved, seconded by Cynthia Benning, to allow Sue Sutter to participate in the Pharmacy Internship Board's tele-lecture on April 5, 2001. Motion carried unanimously.

#### PHARMACY INTERNSHIP BOARD/NABP

MOTION: Cynthia Benning moved, seconded by Dan Luce, to have the Board contact NABP to inform NABP they support the idea of allowing the PIB to join NABP. Motion carried unanimously.

#### REGULATORY DIGEST

Sue Sutter is working on the draft of the *Regulatory Digest*.

#### NABP/AACP DISTRICT IV FALL 2001 MEETING UPDATE

John Bohlman reported on the meeting he and Patrick Braatz attending with Nathan Kanous and U.W. School of Pharmacy Dean Mel Weinswig. The theme of the meeting will be medication errors and outcomes regulation and how they relate. Speakers and presentations are being finalized at this time.

## 2001 ASSEMBLY BILL 168

This is being shared with the Pharmacy, Medical and Nursing Boards. This bill extends protection to other health professionals on the basis of creed. The Pharmacy Board has no comment on this bill.

### RECESS TO CLOSED SESSION

MOTION: Cynthia Benning moved, seconded by Charlotte Rasmussen, to recess to closed session pursuant to Chapter 19.85(1)(a), (b), (f) and (g), Wis. Stats., for the purpose of deliberation of proposed stipulations, deliberation of a petition for summary suspension, personal appearances requesting reinstatement of licenses/unlimited license, considering requests for stays of suspensions and modifications in board orders, reviewing correspondence from licensees, reviewing applications, reviewing case status reports, discussion of examination issues and consulting with legal counsel. Roll call vote: John Bohlman – yes, Sue Sutter – yes, Michael Bettiga – yes, Cynthia Benning – yes, Georgina Forbes – yes, Charlotte Rasmussen – yes, Dan Luce – yes. Motion carried unanimously.

Open session recessed at 10:46 a.m.

### RECONVENE IN OPEN SESSION

MOTION: Charlotte Rasmussen, seconded by Sue Sutter, to reconvene in open session. Motion carried unanimously.

Open session reconvened at 5:46 p.m.

### VOTING ON ITEMS CONSIDERED/DELIBERATED ON IN CLOSED SESSION

#### PERSONAL APPEARANCES

#### REQUESTS FOR REINSTATEMENT OF LICENSES

#### ROBERT GUZZETTA, RPH

MOTION: Cynthia Benning moved, seconded by Michael Bettiga, to grant a limited license and three-month stay of suspension to Robert Guzzetta, R.Ph. Mr. Guzzetta must 1) follow all requirements of the original Order, 2) complete 60 hours of CE within four months from the date of signing the Order, and these hours cannot be counted towards the required CE hours for the current biennium, and 3) must successfully pass the MPJE exam within four months from the date of signing the Order. Mr. Guzzetta's license is further limited to practice in a nuclear pharmacy only and he must work under general supervision for the first 700 hours of employment. Motion carried unanimously.

RALPH KOCH, RPH

MOTION: Cynthia Benning moved, seconded by Michael Bettiga, to grant a three-month stay of suspension to Ralph Koch, R.Ph., but deny his request for a change in therapy. Mr. Koch must attend therapy once per month, and all prescriptions filled by Mr. Koch must be checked by another pharmacy employee prior to dispensing to the patients. Mr. Koch may not re-petition the Board for any changes to his order until January 2002. Georgina Forbes abstained. Motion carried.

REQUEST FOR UNLIMITED LICENSE

JEFFREY OTTESEN, RPH

MOTION: Cynthia Benning moved, seconded by Sue Sutter, to deny the request for an unlimited license to Jeffrey Ottesen, R.Ph. Michael Bettiga abstained. Motion carried.

MOTION: Sue Sutter moved, seconded by Cynthia Benning, to attach the following limitations to the license of Jeffrey Ottesen, R.Ph.: 1) Mr. Ottesen must always be scheduled with another pharmacy employee, and 2) there must be a system in place to record and report medication errors. These limitations will be in place for a minimum of two years. Michael Bettiga abstained. Motion carried.

MOTION: Sue Sutter moved, seconded by Cynthia Benning, to have Board Counsel draft a new stipulation in the matter concerning Jeffrey Ottesen, R.Ph., with the limitations approved by the Board. Michael Bettiga abstained. Motion carried.

REQUESTS FOR STAYS OF SUSPENSIONS/CHANGES IN ORDERS

MARK ANDERSON, RPH

MOTION: Cynthia Benning moved, seconded by Michael Bettiga, to grant a three-month stay of suspension to Mark Anderson, R.Ph. Dan Luce abstained. Motion carried.

CORY FORD, RPH

MOTION: Cynthia Benning moved, seconded by Charlotte Rasmussen, to grant a three-month stay of suspension, but deny the request for an increase in hours, to Cory Ford, R.Ph. Motion carried unanimously.

WILLIAM KARWOSKI, RPH

MOTION: Sue Sutter moved, seconded by Michael Bettiga, to grant a three-month stay of suspension to William Karwoski, R.Ph. Motion carried unanimously.

DAVID KLEINGARTNER, RPH

MOTION: Michael Bettiga moved, seconded by Cynthia Benning, to grant a three-month stay of suspension, but deny the request for an increase in hours as pharmacist in charge, to David Kleingartner, R.Ph. Mr. Kleingartner may re-petition the Board in June 2001. Motion carried unanimously.

JAMES MEYER, RPH

MOTION: Sue Sutter moved, seconded by Michael Bettiga, to notify James Meyer, R.Ph., that his license is suspended due to a lack of request for a stay of suspension. Motion carried unanimously.

PAUL NELSON, RPH

MOTION: Cynthia Benning moved, seconded by Michael Bettiga, to grant a three-month stay of suspension, a decrease in urine screens to six (6) random screens per month, and allow one hour per day as pharmacist in charge, with no open or close, to Paul Nelson, R.Ph. Motion carried unanimously.

MICHAEL O'KRAY, RPH

MOTION: Cynthia Benning moved, seconded by Michael Bettiga, to grant a three-month stay of suspension to Michael O'Kray, R.Ph. Motion carried unanimously.

ERIC SCHUSTER, RPH

MOTION: Sue Sutter moved, seconded by Georgina Forbes, to deny the request for a stay of suspension, and ask for documentation of therapy and urine screens for Eric Schuster, R.Ph. Mr. Schuster may re-petition the Board when the required documentation is received. Motion carried unanimously.

THOMAS TRISCARI, RPH

MOTION: Michael Bettiga moved, seconded by Georgina Forbes, to grant a three-month stay of suspension to Thomas Triscari, R.Ph. Cynthia Benning abstained. Motion carried.

CRAIG MOON, RPH

Michelle Neverman will respond to Craig Moon, R.Ph. The Board will review the reports when a stay of suspension is due.

ANDREW RICE RPH

MOTION: Cynthia Benning moved, seconded by Sue Sutter, to grant a three-month stay of suspension to Andrew Rice, R.Ph. Mr. Rice must return to therapy



once per week, must supply a copy of the order to Hazelden and must delete “Wayne’s Pharmacy” from his fax machine banner. Michael Bettiga abstained. Motion carried.

#### APPLICATION REVIEW

##### OMRO PHARMACY/KENNETH A BRESSERS, RPH

MOTION: Cynthia Benning moved, seconded by Sue Sutter, to request additional information from Nevada State Board of Licensing regarding the pharmacist license history since 1997 of Kenneth A. Bressers, R.Ph. The Board also requests a drivers license history from Nevada and Wisconsin. The decision on this matter was tabled until the requested information is received and reviewed. Dan Luce abstained. Motion carried.

#### PETITION FOR SUMMARY SUSPENSION

##### DOUGLAS K STUCKY, RPH

Sue Sutter and Dan Luce were excused from the room prior to deliberation.

MOTION: Michael Bettiga moved, seconded by Charlotte Rasmussen, to deny the petition for summary suspension in the matter concerning Douglas K. Stucky, R.Ph., and to inform Mr. Stucky of the decision. Sue Sutter and Dan Luce abstained. Motion carried.

Sue Sutter and Dan Luce returned to the room.

#### PROPOSED STIPULATIONS

##### DAVID PROHASKA, RPH, BALSAM LAKE PHARMACY, JAMES PHARMACY (BARRON), JAMES PHARMACY (TURTLE LAKE), SHELL LAKE PHARMACY, MILLER PHARMACY AND BLUE HILLS PHARMACY

MOTION: Michael Bettiga moved, seconded by Charlotte Rasmussen, to adopt the Findings of Fact, Conclusions of Law and Order in the matter concerning David Prohaska, R.Ph., Balsam Lake Pharmacy, James Pharmacy (Barron), James Pharmacy (Turtle Lake), Shell Lake Pharmacy, Miller Pharmacy and Blue Hills Pharmacy. Case advisor – Dan Luce. Sue Sutter and John Bohlman abstained. Motion carried.

##### C JEFF ELIASON, RPH

MOTION: Dan Luce moved, seconded by Sue Sutter, to adopt the Findings of Fact, Conclusions of Law and Order in the matter concerning C. Jeff Eliason, R.Ph., and close the case against the pharmacy. Case advisor – Georgina Forbes. Motion carried unanimously.

## CASE STATUS REPORT

MOTION: Michael Bettiga moved, seconded by Georgina Forbes, to close complaint **00 PHM 042** for insufficient evidence. Case advisor – Charlotte Rasmussen. Motion carried unanimously.

MOTION: Charlotte Rasmussen moved, seconded by Cynthia Benning, to close complaint **00 PHM 068** for prosecutorial discretion (P3). Dan Luce and case advisor Michael Bettiga abstained. Motion carried.

Complaint **00 PHM 053** was returned to DOE for renegotiation.

## PETITION FOR REHEARING

WALLACE L SIMONS, RPH, CAROL L PETERSON, RPH AND  
WOMEN'S INTERNATIONAL PHARMACY

John Bohlman and Cynthia Benning were excused from the room prior to deliberation.

MOTION: Michael Bettiga moved, seconded by Dan Luce, after consideration of the Petition for Rehearing, paragraph 8 of the Conclusions of Law of the Final Decision will be stricken based on review of applicable law, and in the Findings of Fact the burden of proof for a violation is not met. Accordingly, the forfeiture assessed is reduced to \$8,000.00. John Bohlman and Cynthia Benning abstained. Motion carried.

John Bohlman and Cynthia Benning returned to the meeting.

## ADJOURNMENT

MOTION: Cynthia Benning moved, seconded by Michael Bettiga, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 6:00 p.m.

Phar 031201